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THE PHOENIX INSURANCE COMPANY,
THE TRAVELERS INDEMNITY COMPANY,
THE TRAVELERS INDEMNITY COMPANY
OF CONNECTICUT, AND TRAVELERS
PROPERTY CASUALTY COMPANY OF AMERICA

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE)**

THE PHOENIX INSURANCE
COMPANY, a Connecticut corporation;
THE TRAVELERS INDEMNITY
COMPANY, a Connecticut corporation;
THE TRAVELERS INDEMNITY
COMPANY OF CONNECTICUT, a
Connecticut corporation; TRAVELERS
PROPERTY CASUALTY COMPANY OF
AMERICA, a Connecticut corporation,

Plaintiffs and Counter-Defendants,

v.

INFINITY CONTACT, INC., an Iowa
corporation; and NUANCE
COMMUNICATIONS, INC., a Delaware
corporation,

Defendants and Counter-Claimants

CASE NO. 5:13-cv-5905 BLF

**JOINT STIPULATION AND ~~PROPOSED~~
ORDER TO EXTEND JANUARY 15, 2015
DEADLINE TO RE-NOTICE SUMMARY
JUDGMENT MOTION OR TO FILE
STIPULATION OF DISMISSAL, IN ORDER
TO ACCOMMODATE JANUARY 20, 2015
GLOBAL SETTLEMENT CONFERENCE**

DEMAND FOR JURY

Courtroom: 3
Judge: Hon. Beth Labson Freeman
Floor: 5

Pursuant to Federal Rule of Civil Procedure 6(b) and Local Rules 6-1(b) and 6-2, Defendant NUANCE COMMUNICATIONS, INC. (“Defendant”) and Plaintiffs THE PHOENIX INSURANCE COMPANY, THE TRAVELERS INDEMNITY COMPANY, THE TRAVELERS INDEMNITY COMPANY OF CONNECTICUT, and TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA (collectively, “Plaintiffs”) (together, with Defendant, the “Parties”), through their undersigned counsel, hereby file the following stipulated request to extend the deadlines set forth in the Court’s Order of October 29, 2014, Docket Entry No. 67. (“October 29 Order”). The Parties respectfully request that the Court extend Plaintiffs’ deadline to re-notice their Motion for Summary Judgment, or for the Parties to file a Stipulation of Dismissal, to March 2, 2015. Should Plaintiffs choose to re-notice their Motion for Summary Judgment, the Parties respectfully request that the Court extend Defendant’s deadline to file its opposition until April 1, 2015; extend Plaintiffs’ deadline to file their reply until April 22, 2015; and set the hearing on Plaintiffs’ Motion for Summary Judgment for Thursday, May 7, 2015 or as soon thereafter as the Court has availability. In support of this request, the Parties stipulate as follows:

WHEREAS, on June 2, 2014, the Court issued a Case Management Order, Docket Entry No. 46 (“CMO”) setting forth the following schedule with respect to motions for summary judgment:

Parties to file Cross-Motion for Summary Judgment	June 30, 2014
Response to Motion for Summary Judgment	July 30, 2014
Reply to Motion for Summary Judgment	August 20, 2014
Motion for Summary Judgment Hearing	November 6, 2014 at 9:00 a.m.

WHEREAS, on June 30, 2014, Plaintiffs filed their Motion with this Court;

WHEREAS, on July 15, 2014, the Parties initiated discussions relating to potential settlement of this action;

WHEREAS, to further explore potential settlement of this action, the Parties stipulated on July 18, 2014 to extend Defendant’s deadline to file its opposition to the Motion until Friday, August 15, 2014 and Plaintiffs’ deadline to file their reply to the Motion until Friday, September 5, 2014;

1 WHEREAS, on August 26, 2014, the Parties reached a settlement, in principal, and
2 began preparing an agreement to memorialize the settlement;

3 WHEREAS, to provide the Parties with time to draft the settlement agreement, the
4 Parties stipulated on August 28, 2014 to extend Defendant's deadline to file its opposition to the
5 Motion until September 29, 2014 and Plaintiffs' deadline to file their reply to the Motion until
6 October 22, 2014;

7 WHEREAS, to provide the Parties with additional time to draft the settlement
8 agreement, the Parties stipulated on September 29, 2014 to extend Defendant's deadline to file its
9 opposition to the Motion until October 29, 2014 and Plaintiffs' deadline to file their reply to the
10 Motion until November 24, 2014;

11 WHEREAS, on October 28, 2014, the Parties filed their Fifth Joint Stipulation to
12 Revise Briefing Schedule for Opposition and Reply to Plaintiffs' Motion for Summary Judgment.
13 Under that Stipulation, the Parties proposed that Defendant's deadline to file its opposition to the
14 Motion be extended until Thursday, January 29, 2015; that Plaintiffs' deadline to file its reply to the
15 Motion be extended until Monday, February 23, 2015; and that, if the settlement agreement were not
16 effectuated, a hearing on the Motion be scheduled for Thursday, March 12, 2015 at 9:00 a.m., or at
17 the Court's earliest convenience thereafter;

18 WHEREAS, on October 29, 2014, the Court denied as moot the Fifth Joint
19 Stipulation, and instead issued an Order requiring Plaintiffs to re-notice their Motion for Summary
20 Judgment, or requiring the Parties to file a Stipulation of Dismissal, by January 15, 2015;

21 WHEREAS, on November 18, 2014, after the Court issued its October 29 Order, the
22 Court referred this matter to Magistrate Jacqueline Scott Corley for settlement;

23 WHEREAS, On December 12, 2014, Magistrate Corley ordered a global settlement
24 conference in this insurance coverage matter and in the underlying matter, captioned *William*
25 *Hopwood and Teresa Martinez, individually and on behalf of all others similarly situated v. Nuance*
26 *Communications, Inc. and Infinity Contact, Inc.*, Case No. CV-13-2132-YGR (N.D. Cal. May 8,
27 2013) ("Global Settlement Conference"), to be scheduled for January 12, 2015;

1 WHEREAS, after holding a telephonic settlement conference with defense counsel on
2 January 5, 2015, Magistrate Corley continued the Global Settlement Conference until January 20,
3 2015;

4 WHEREAS, under Magistrate Corley's continuation to January 20, 2015, the Global
5 Settlement Conference is now scheduled for five days after the January 15, 2015 deadline set forth in
6 this Court's October 29 Order;

7 WHEREAS, an extension of the deadlines set forth in the Court's October 29 Order is
8 necessary to accommodate the Global Settlement Conference and any necessary follow-up work
9 related to settlement;

10 WHEREAS, no Party will be prejudiced by the relief requested in the stipulation;

11 WHEREAS, this stipulation is without prejudice to, or waiver of, any rights or
12 defenses otherwise available to the Parties in this action;

13 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, between the
14 parties hereto that:

- 15 1) Plaintiffs' shall have through and including **March 2, 2015** to re-notice their Motion for
16 Summary Judgment or, alternatively, the Parties shall have through and including **March**
17 **2, 2015** to file a Stipulation of Dismissal;
- 18 2) Should Plaintiffs re-notice their Motion for Summary Judgment, Defendant shall have
19 through and including **April 1, 2015**, to file its opposition to Plaintiffs' Motion;
- 20 3) Should Plaintiffs re-notice their Motion for Summary Judgment, Plaintiffs shall have
21 through and including, **April 22, 2015** to file their reply in support their Motion; and
- 22 4) Should Plaintiffs re-notice their Motion for Summary Judgment, the hearing on the
23 Motion shall be scheduled for **Thursday, May 7, 2015** or as soon thereafter as the court
24 has availability.

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

2 Dated: January 15, 2015

Respectfully submitted,

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4 By: /s/ Mark D. Peterson

Mark D. Peterson

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9 *Attorneys for Plaintiffs*

*The Phoenix Insurance Company, The
Travelers Indemnity Company, The Travelers
Indemnity Company of Connecticut, and
Travelers Property Casualty Company of
America*

12 Dated: January 15, 2015

Respectfully submitted,

14 By: /s/ Nicole L. Chessari

Michael T. Jones (SBN 661336)

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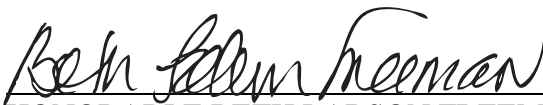
19 *Attorneys for Defendant*

Nuance Communications, Inc.

21 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

22 Plaintiffs shall re-notice their Motion for Summary Judgment for hearing on May 14, 2015.

24 DATED: January 15, 2015

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HONORABLE BETH LABSON FREEMAN

United States District Judge